

*London The Society of Friends of the People
associated for obtaining Parliamentary
Reform*

R E P O R T
OF THE
R E P R E S E N T A T I O N
OF
S C O T L A N D.

L O N D O N :

PRINTED, BY ORDER OF THE SOCIETY, FOR D. STUART,
NO. 52, FRITH-STREET, SOHO; AND SOLD BY ALL THE
BOOKSELLERS IN TOWN AND COUNTRY.

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NOTATION

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REPORT OF THE COMMITTEE
OF THE
FRIENDS OF THE PEOPLE,
ASSOCIATED FOR THE PURPOSE OF OBTAINING
A REFORM OF PARLIAMENT,
APPOINTED to examine into the STATE of the
REPRESENTATION of SCOTLAND.

BEFORE your Committee proceeds to the consideration of the important objects to which they conceive you chiefly intended to direct their attention, it may not be improper to mention a sort of Representation which is peculiar to North Britain ; which has an irresistible tendency to give to the Crown an undue influence in the House of Lords ; and which by a more silent, but not less effectual operation, contributes equally to the same end in the other House of Parliament.

At the Union of the two kingdoms, in the beginning of this century, the Peers of Scotland surrendered their hereditary right to seats in Parliament ; and were limited to an Elective Representation by Sixteen of their number. It is not the intention of your Committee to enter at large into the history of their elections ; it is sufficient to state, that it is universally known, that, ever since the Union, they have been considerably influenced by the Ministers of the Crown ; which species of patronage has given them an undue preponderance in the popular branch of the Legislature, by means which will be afterwards explained.

Your Committee having thus slightly touched on the state of the Scottish Peerage, and only as it has a reference to their immediate object ; they will now

endeavour to fulfil their duty, by presenting to the Society a true and impartial account of the Representation of the People of Scotland in the House of Commons.

They will first establish, as they think incontrovertibly,

1. That the Constitution of the Scottish Parliament was originally popular and free.
 2. That many laws, which have been enacted for the regulation of Elections, bear evident marks of the combined efforts of the Crown and the Aristocracy, to narrow the Rights of Election.
 3. That each of these laws deprived the people of some Right formerly enjoyed and exercised.
 4. That, by various fictions of law, contrary to the spirit of the British Constitution, the Right of Election of Members to serve in Parliament has been transferred from those to whom it justly and naturally belonged, to others, who had no right whatsoever.
 5. That these grievances have been long and severely felt by the People; that they have been often complained of; and that various statutes for their remedy have been vainly enacted and successfully eluded.
 6. That the system of Representation in Scotland is now so confined and defective, that it has become a mere mockery upon the name or idea.
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Although the Counties, Cities, and Burghs labour under the same Constitutional grievance, and suffer equally from the gradual deterioration of their ancient condition, it will be necessary to consider their history separately, on account of the different modes in which their Rights have been circumscribed, usurped, or destroyed.

C O U N T I E S.

By the Constitution of Scotland, the Parliament being the King's Court Baron, or *Curia Regis*, he could summon all his immediate tenants to attend him there. In these remote times, service in Parliament was not considered as a profitable privilege, but as a burdensome duty; and, in the beginning of the fifteenth century, the system of Representation was introduced for the ease and benefit of the vassals or tenants. Yet, until near the end of the sixteenth century, every freeholder or tenant of the Crown was entitled to vote at Elections, however small

small his property might be, which sufficiently proves the ancient popularity and freedom of the institution.

In the reign of James the Sixth of Scotland, and First of England, (a monarch who was not distinguished by too great an attachment to the liberty of mankind) the right of voting was first restricted to freeholders possessing lands of forty shillings, of what was called "Old Extent;" that is of lands which were so rated in the cess or county books about the end of the thirteenth, or beginning of the fourteenth century. Your Committee wish you to observe, that this was a great and fatal blow to popular Election; for though forty shillings was made, *as in England*, the nominal standard of a vote, yet by carrying it back to a rate or valuation made three hundred years before, the value of money having considerably fallen, the extent of the qualification required was very much raised.— And this circumstance points out the efficient cause of the enormous difference which subsists between England and Scotland with regard to the freedom and popularity of Election in the Counties. In England, the qualification has been allowed to keep pace with the decreasing value of money, and has therefore been extended to greater numbers of Electors. In Scotland, by the limitations to the rates and valuations of very remote periods, the right of voting has been confined to the possessors of very considerable estates, and the number of Electors has been very much diminished.

Had the Scottish Kings and Nobles stopped at this point, the evil might have been endured: but they proceeded vigorously in their career of encroachment. In the reign of Charles the Second it was enacted, that where the right of voting on an old forty shillings land could not be proved, which had become difficult, then to be enabled to vote, it should be necessary to be infeft in, or seized of an estate, valued in the same reign at 400l. Scots annual rent. It is proper here to mention, that at this day, by the nearest average which can be made over the whole kingdom, the rent of those lands, which are valued at forty shillings "Old Extent," is from 70l. to 130l. sterling; and the rent of the lands valued in the reign of Charles the Second at 400l. Scots, is now about 400l. Sterling, so that this King more than tripled the qualification required of the greatest part of the kingdom, by substituting lands, worth 400l. instead of those worth 100l. or 130l.

Even this infringement was not thought enough; under George the Second the modes of proving the existence of those old Forty Shilling Votes, were rendered more difficult, by details with which your Committee will not trouble you; they will only state that by these regulations many of those votes have disappeared, and that very few of them now remain.

Hitherto your Committee have confined themselves to the statement of those evils

evils which arise from the magnitude of the qualifications required in electors, and their consequent Paucity : they have yet supposed that this precious right is exercised only by the real proprietors of the soil, under certain grievous and improper limitations ; but they are now to describe mischiefs of another nature, which have been suffered to grow up, which have been fondly fostered in the bosom of kingly and aristocratic power ; and which have totally perverted and completely overturned the real representation of the Counties.

By the Act of Charles II, 1681, the foundation was laid for the intolerable abuses which now exist, and which certainly were never contemplated or foreseen by that Parliament. It was then enacted, that the right of voting should be in persons publickly infest in *property* or *superiority* of lands of forty shillings old extent, or £400 Scots valued rent ; thus making the distinction and drawing the line between *property* and *superiority*. It is necessary to explain this term of *superiority*, because from an abuse of it, the principal grievances in the elections for Knights of the Shire in Scotland have arisen.

The feudal law supposes the King to be the sole proprietor of all the lands in the kingdom : from him his vassals hold by charter ; in like manner his vassals may grant lands to be held from them by charter ; these sub-vassals may repeat the same operation *ad infinitum* ; but the original or *immediate* vassal of the king has the sole right of voting or being elected to serve in Parliament. From this system the following consequences have flowed :

I. Proprietors of estates, of whatsoever value, who hold from a subject, are not entitled to vote or to be elected. It is computed, that in several Counties nearly one half of the lands are held in this manner from subjects superior : over the whole kingdom it is believed that one fifth of the lands are so held ; therefore the proprietors of one fifth of the landed property, as far as that property operates, are deprived of any voice in the choosing their Representatives.

II. In this class of landholders, so excluded from this invaluable franchise, are men of estates worth from £500 to £2000 per annum ; but what is more to be lamented, it comprehends the best and most virtuous parts of the community, namely, the middling and smaller gentry, and the industrious yeomen and farmers who have inherited or acquired some landed property.

III. Many persons without the smallest interest in the land possess the right of voting and of being elected.

IV. It is a principle in the constitution, that no man shall have more than one vote in the same county in his own person ; and it is another principle, that no Peer of the realm shall have any vote at all in the election of Members to serve in the House of Commons.

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By an ingenious device of the lawyers, these two fundamental principles have been eluded : When a person of great property wishes to multiply his votes, he surrenders his charter to the Crown ; he appoints a number of confidential friends, to whom the Crown parcels out his estate in lots of £400 Scots valued rent : then he takes charters from these friends for the real property ; thus leaving them apparently the immediate tenants of the Crown, and consequently all entitled to vote or to be elected. This operation is equally open to Peers and great Commoners, who have availed themselves of it accordingly ; the Peers thus acquiring an influence from which they are excluded by the spirit and forms of the Constitution ; and the great Commoners extending and multiplying a right in an undue and fraudulent manner—thereby depreciating or extinguishing the franchises of the smaller proprietors, with great and manifest prejudice to the general liberty of the country.

This legal fraud began in this century, and has been chiefly practised during the present reign ; it therefore derives no shelter or sanction from custom, which the folly of men allows to cover a multitude of glaring abuses. Your Committee will not dwell on the various modes by which it has been performed : they will briefly state, that the common methods have been by Life Rent Charters, Charters on Wadset or Mortgage, and Charters in Fee.

The Legislature has not been blind to these mischievous innovations ; nor has it been inactive in endeavouring to resist and prevent them. It has admitted, that these delusive surrenders of Charters, and consequent creations of nominal and fictitious votes, are fraudulent in fact and principle ; and it has decreed, that wherever they can be detected, they shall be illegal and void. Several laws have been passed for the prevention of such proceedings, and for the detection of such crimes. Oaths have been enacted to be taken by freeholders claiming to poll at elections, couched in the strongest terms, and providing as many guards as the zeal and wisdom of the Legislature could invent ; but all these precautions have been constantly defeated by the ingenuity of the learned profession, who have always succeeded in finding salvos for weak consciences. Gentlemen of the fairest characters, nay clergymen, have been induced by subtile explanations, and the nicest verbal subterfuges, to take these oaths, contrary to the evident intendment of the Legislature, contrary to the received meaning and usage of our language, and in defiance of the general sense of their country.

Your Committee refer you to the Acts, 12 Anne, cap. 6. and 7 Geo. II. cap. 18, not only for the terms of the oaths, but for the purpose and meaning of the laws.

The Court of Session in Scotland have been remarkably unfortunate in their endeavours to give effect to these laws. Being composed of fifteen judges, and the sentences being decided by the majority actually present, it has necessarily happened, that from the diversity of opinions naturally incident to mankind, the decisions of the court have frequently varied, according to the absence or attendance of the several Lords ; and the same points at issue have often undergone very different and opposite determinations. Nor has the situation of the subject been much bettered by the Appeal to the House of Peers ; for very contrary systems concerning these election laws have been maintained and carried into effect by the highest authorities in that final judicature. What was law one day, and under the direction of one Judge, was not law another day, and under another Judge : and thus from the double uncertainty of the manner in which the majorities on the Scottish Bench might decide, and of the varying opinions of the high legal characters in England, men have had no security, and have been doomed to suffer *incertum jus, summa injuria*. It may not be wrong to state, that not less than six hundred law-suits have taken place within these twenty years on this subject of County Elections, which with the attendant legal operations have cost above a million of pounds sterling.

The Parliamentary Representation of the Counties in Scotland has therefore, according to the expression of a Noble Lord high in the law, “ completely slid “ from its basis.” Much undue influence has been acquired by the Crown, the Nobility, and the great Proprietors ; the laws have been eluded and perverted ; the number of Electors has been greatly diminished ; and the Constitutional Rights of the subject have been invaded, usurped, or annihilated.

By Table, No. I, which is annexed, it will be seen, that, in two of the Counties, there are only three real voters in each ; in seven, not more than ten : in all of them respectively very few. The total number of real voters in the whole kingdom is 1,390. Total of false, nominal and fictitious voters 1,201 : and thirty-three Counties return only thirty members, six having only the right of sending a member to every second Parliament.

CITIES AND BURGHS.

BY the ancient and original Constitution of the Cities and Burghs, the Magistrates and Town Councils *were chosen by the Resident Burgeesses and Proprietors of houses and lands* : this, however, was a state of freedom, too incompatible with the proud and narrow views of the Kings and Nobility, who constantly in hostility with each other, agreed in nothing but in degrading and oppressing the people. By an act passed in 1469, the Town Councils were invested with

with the power of electing their successors; and, in 1474, it was ordained that four persons of the Old should be annually chosen into the New Town Councils. By these laws, as far as they were effectual, the Burgeses and Inhabitants at large were disfranchised; they had no longer any controul over their Magistrates; and the Corporations became self-elected Juntos, totally separated in interest from their former Constituents and Fellow Citizens.

Every City or Burgh had certain estates in land, houses, fisheries, port duties, and other valuable sorts of property; the revenue arising from which was by their original Charters and Constitutions destined to be applied for the benefit of their Communities; but as soon as the Magistrates and Councils acquired the power of electing themselves in perpetuity, they administered, embezzled, and dilapidated these estates at their pleasure.

This subject is now before Parliament; and a great body of evidence has been compiled, which will soon be published, and which will throw very great light on the antient state of the Scottish Burghs. Your Committee, however, have thought proper to mention it as one great branch of the encroachment on former rights.

It is absolutely necessary to state, that these unjust acts of 1469 and 1474 have been so detested by the People, and so much resisted in practice, that they have never been completely executed in any one place: in many of the Burghs the Burgeses continued for a long period to elect their own Magistrates, and several Charters have been granted as low down as the end of the last century, conferring the Right of Election on the Burgeses. These acts, then, on which the present system is founded, have not the sanction derived from the submission, consent, or reverence of the People: and their repeal would not be an innovation, but a Restoration of antient rights and privileges.

If the Cities and Burghs had suffered in their common property only, by these tyrannical laws, they would have been comparatively fortunate; but as their Representatives in Parliament were to be chosen by the Magistrates and Councils, when they lost the right of electing them, they lost all share in the choice of their Legislators; and, in this unhappy situation, they find themselves at this day.

At the Union, Edinburgh, being the capital, alone retained its right of sending one member to Parliament: all the other towns were thrown into districts of fours and fives, each district being allowed to send one member.—This induced a regulation, which still more sensibly wounded the freedom of Election. By it, every Burgh now elects a Delegate; these Delegates meet by

rotation at each of the towns to elect the Representative. The place where they meet is called the presiding Burgh for that Election, and its Delegate has a casting vote in case of an equality of voices. The Burghs have no controul on their Delegates; they must trust entirely to honour for the return of the person by whom they wish to be represented: and there *have* been instances where the Delegates have corruptly betrayed their trust, and have acted contrary to the desire and expectation of their Constituents.

Another evil, deeply felt by the great commercial towns, is their being classed with insignificant and obscure Burghs: among many instances of this it will be sufficient to mention Glasgow, which is known to be one of the most opulent trading cities of Great Britain. Its number of inhabitants exceeds 60,000; its Delegate is chosen by thirty-two persons, who are self-elected; and this Delegate has only one voice of four in the choice of a Member of Parliament, in common with the Delegates of three little towns, the inhabitants of which are not more than 2000.

By Table, No. II. it appears that of the fifteen Members for the Cities and Burghs, one for Edinburgh is chosen by thirty-three persons; the other fourteen by 65 Delegates, who are elected by 1220 persons.

The inhabitants of Scotland are supposed to be near two millions; their Representatives are chosen by 2643. Scotland sends forty-five members; a single county in England, namely Cornwall, sends forty-four.

Your Committee will now conclude: they have endeavoured to be as brief as possible, and to confine themselves strictly to the most material facts. Volumes might have been written on the matter which has presented itself to their observation: but they hope with deference to the judgment of the Society, that they have more truly executed the task which they undertook by compressing, than by expanding the subject.

TABLE, &c. of Number of Electors in the Counties, &c.

No. I.

	1788.		1790.	Valued Rent of each Shire in Scotland, Scots money.
	Real.	Nominal.	Real and Nominal.	
1 Aberdeen	82	96	158	235,665 8 11
2 Argyll	23	21	43	149,595 10 0
3 Ayr	86	119	220	191,605 0 7
4 Banff	19	103	108	79,200 0 0
5 Berwick	66	87	150	178,365 7 3
6 Dumbarton	15	51	65	33,327 19 0
7 Dumfries	34	11	49	237,941 3 4
8 Edinburgh, or Mid Lothian	83	10	96	191,054 3 9
9 Fife	153	32	188	362,584 7 5
10 Forfar, or Angus	71	24	92	171,519 15 7
11 Haddington, or East Lothian	61	13	76	168,878 5 10
12 Inverness	20	83	103	73,188 9 0
13 Kincardine	46	6	55	74,921 1 0
14 Kirkcubright	80	72	155	114,571 19 3
15 Lanerk	55	69	148 about	160,000 0 0
16 Linlithgow, or West Lothian	29	18	64	74,931 19 2
17 Moray, or Elgin	23	53	77	65,603 0 5
18 Orkney	18	21	40	56,551 9 1
19 Peebles	32	5	37	51,937 13 10
20 Perth	128	19	145 about	335,000 0 0
21 Renfrew	32	82	128	68,076 15 2
22 Ross	46	33	72	75,040 10 3
23 Roxburgh	56	49	81	315,594 14 6
24 Selkirk	27	13	40	80,307 15 6
25 Stirling	46	30	59	108,518 8 9
26 Sutherland	8	23	35	26,193 9 9
27 Wigton	29	34	53	65,338 7 8

The following six Shires elect a Member alternately. At the last election the Shires of Caithness, Kinross, and Cromarty, returned a Member to Parliament. At the next election the Shires of Bute, Clackmannan, and Nairn, will return a Member to Parliament; that is, Caithness alternately with Bute, Clackmannan with Kinross, and Nairn with Cromarty. At the last election in 1790,

28 Caithness	10	11	22	37,256 2 10
29 Cromarty	3	6	6	12,897 2 8
30 Kinross	9	17	23	20,192 11 2
To return next election				
31 Bute	1390	1201	2588	3,815,857 11 8
32 Clackmannan	3	9	12	15,022 13 8
33 Nairn	5	11	16	26,482 10 10

TABLE of the Number of Electors in the Royal Burghs.

No. II.

	Number of Town-Council, who choose each one De- legate.	Number of Dele- gates in each dis- trict who chuse the Member of Parliament.		Number of Town-Council, who choose each one De- legate.	Number of Dele- gates in each dis- trict who chuse the Member of Parliament.
I. Edinburgh City	33		IX. Stirling	21	
II. Dinwall	15	5	Inverkeithing	15	5
Dornock	15		Dumfermline	26	
Wick	12		Culrofs	19	
Kirkwall	23		Queensferry	21	
Tain	17		X. Rutherglen	19	4
III. Fortrose	15	4	Glasgow	32	
Inverness	21		Renfrew	21	
Nairn	19		Dumbarton	15	
Forres	17		XI. Jedburgh	25	5
IV. Elgin	17	5	Dunbar	20	
Banff	17		North Berwick	12	
Cullen	26		Lauder	17	
Kintore	9		Haddington	25	
Inverurie	9		XII. Peebles	17	4
V. Aberdeen	19	5	Linlithgow	27	
Montrose	21		Selkirk	33	
Brechin	13		Lanerk	17	
Aberbrothock	19		XIII. Dumfries	25	5
Inverbervie	15		Kirkcudbright	17	
VI. Perth	26	5	Annan	21	
Dundee	20		Lochmaben	15	
St. Andrews	29		Sanquhar	17	
Cupar	31		XIV. Whithorn	19	4
Forfar	19		New Galloway	20	
VII. Crail	21	5	Stranraer	18	
Kilrenny	13		Wigton	18	
Anstruther, Wester	15		XV. Irwine	17	5
Anstruther, Easter	19		Rothsay	19	
Pittenweem	24		Inverary	13	
VIII. Kinghorn	22	4	Cambelltown	17	
Dysart	24		Ayr	17	
Kirkaldy	21				
Burntisland	22				



1220

65

In Edinburgh 33 persons elect one Member of Parliament. In each of the other 14 districts, the respective Town Councils nominate one Delegate each, and by the majority of those Delegates in each district, the Member of Parliament is elected.

Thus in Edinburgh

33 persons elect - 1 Member.

In the other Districts, 1220 chuse

65 persons, who elect 14 Members.

So that ultimately in the Burghs

98 persons elect - 15 Members.

